APPENDIX

Revenue Act of 1934, 48 Stat. 680:

SEC. 701. CAPITAL STOCK TAX.

(a) For each year ending June 30, beginning with the year ending June 30, 1934, there is hereby imposed upon every domestic corporation with respect to carrying on or doing business for any part of such year an excise tax of $1 for each $1,000 of the adjusted declared value of its capital stock.

* * * * *

(U. S. C., Title 26, Sec. 1358.)

Treasury Regulations 64 (1934 Edition):

ART. 32. *Application of the tax.*—The words "carrying on or doing business" must be given their ordinary and natural significance. "Business" is a very comprehensive term and embraces whatever occupies the time, attention, or labor of men for the purpose of livelihood or profit. In other words, business necessarily involves the idea of the pursuit of gain. If a corporation was organized for profit and is doing what it was principally organized to do in order to realize profit, it is doing business.

As a general rule corporations are organized to do business, and ordinarily if a corporation has embarked in business its corporate organization is maintained to that end until the business is completed (as, for example, a real estate subdivision developed and sold), abandoned (as, for example, where prospective oil properties are proven

to be worthless), or turned over to another (as, for example, where the use and control of all its property is conveyed under a long-term lease), or the control and management of all its business and property are assumed by a Federal, State, Territorial, or court officer, either temporarily or for final liquidation (as, for example, a conservator, a trustee in bankruptcy, or a receiver).

If a corporation does not fall within one of the foregoing classes, but nevertheless claims exemption on the ground that it was entirely inactive during the whole of a taxable period, doing nothing more than holding its property, a detailed statement of its activities during the taxable period will be required. Any activities with respect to its properties or business other than such as are necessary to their protection and retention (as paying taxes thereon) will subject the corporation to the tax.

In most cases there will be no difficulty in determining whether a corporation is doing business. In cases where there is doubt the decision must necessarily depend upon the facts presented. Doing business (on or after May 10, 1934) for any part of a taxable year ending June 30 results in liability for the tax for the entire year.

* * * * *

A corporation that has retired from business is one that has changed its status, as, for instance, by divesting itself of all control over and management of the property formerly employed by it in the doing of business, and has reduced its activities accordingly.

* * * * *

ART. 33. *"Carrying on or doing business" illustrated.*—Corporations organized for the

purpose of, and actually engaged in, such activities as buying, selling, or dealing in mineral or timber land or other real estate; leasing property; collecting rents; managing office buildings; leasing lands and collecting royalties; managing wharves; and in some cases investing profits or surplus, are engaged in carrying on or doing business within the meaning of the statute. No particular amount of business is required in order to bring a company within the terms of the Act.

* * * * *

A corporation owning or managing real estate, which leases all of its property but under the terms of the lease is required to maintain or keep the property in repair, is doing business.

A corporation enaged in mining or in developing or speculating in mineral lands is doing business.

A corporation engaged in buying and selling securities or other property is doing business, even though for a period it makes no purchase or sale because of unfavorable market conditions.

* * * * *

A parent corporation which finances or manages the operations of its subsidiaries is doing business.

* * * * *

A corporation which has retired from its principal business (as, for example, the manufacture of automobiles) by turning that part of its business over to another is, nevertheless, doing business, if it engages in or carries on other activities which constitute doing business within the meaning of the Act.

ART. 85. *Not doing business.*—* * * A

corporation, the activities of which are confined to holding property, receiving income therefrom, and distributing such income, does not incur capital stock tax liability. However, if it should go beyond these limitations and engage in any business activities at any time, the tax will attach. No particular amount of business is required to incur tax liability.

U. S. GOVERNMENT PRINTING OFFICE: 1941